

**[COMMITTEE PRINT]**

FEBRUARY 24, 2004

108TH CONGRESS  
2D SESSION**H. R.** \_\_\_\_\_

To prohibit the misappropriation of databases while ensuring consumer access  
to factual information.

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## IN THE HOUSE OF REPRESENTATIVES

M\_\_\_\_. \_\_\_\_\_ introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

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**A BILL**

To prohibit the misappropriation of databases while ensuring  
consumer access to factual information.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Consumer Access to  
5       Information Act of 2004”.



1 **SEC. 2. MISAPPROPRIATION OF A DATABASE.**

2 (a) MISAPPROPRIATION PROHIBITED.—The mis-  
3 appropriation of a database is an unfair method of com-  
4 petition and an unfair or deceptive act or practice in com-  
5 merce under section 5(a)(1) of the Federal Trade Com-  
6 mission Act (15 U.S.C. 45(a)(1)).

7 (b) DEFINITION.—For purposes of subsection (a),  
8 the term “misappropriation of a database” means that—

9 (1) a person (referred to in this section as the  
10 “first person”) generates or collects the information  
11 in the database at some cost or expense;

12 (2) the value of the information is highly time-  
13 sensitive;

14 (3) another person’s (referred to in this section  
15 as the “other person”) use of the information con-  
16 stitutes free-riding on the first person’s costly efforts  
17 to generate or collect it;

18 (4) the other person’s use of the information is  
19 in direct competition with a product or service of-  
20 fered by the first person; and

21 (5) the ability of other parties to free-ride on  
22 the efforts of the first person would so reduce the  
23 incentive to produce the product or service that its  
24 existence or quality would be substantially threat-  
25 ened.



1 **SEC. 3. LIMITATION ON LIABILITY OF CERTAIN ENTITIES.**

2 (a) LIMITATION ON LIABILITY.—No provider of an  
3 interactive computer service shall be liable under section  
4 2 for making available information that is provided by an-  
5 other information content provider.

6 (b) DEFINITIONS.—In this section, the terms “inter-  
7 active computer service” and “information content pro-  
8 vider” have the meaning given to those terms in section  
9 230(f) of the Communications Act of 1934 (47 U.S.C.  
10 230(f)).

11 (c) CONSTRUCTION.—For purposes of section 230 of  
12 the Communications Act of 1934 (47 U.S.C. 230) and any  
13 other provision of law, the provisions of this Act shall not  
14 be construed to be a law pertaining to intellectual prop-  
15 erty.

16 **SEC. 4. REMEDIES.**

17 (a) TREATMENT OF VIOLATIONS AS RULE VIOLA-  
18 TIONS.—A misappropriation of a database under section  
19 2 shall be treated as a violation of a rule defining an un-  
20 fair or deceptive act or practice prescribed under section  
21 18(a)(1)(B) of the Federal Trade Commission Act (15  
22 U.S.C. 57a(a)(1)(B)).

23 (b) FTC AUTHORITY.—The Federal Trade Commis-  
24 sion shall enforce this Act in the same manner, by the  
25 same means, and with the same jurisdiction, powers, and  
26 duties as though all applicable terms and provisions of the



1 Federal Trade Commission Act (15 U.S.C. 41 et seq.)  
2 were incorporated into and made a part of this Act.

3 **SEC. 5. EXCLUSIONS.**

4 Nothing in this Act shall—

5 (1) affect the operation of the Securities Act of  
6 1933 (15 U.S.C 78a et seq.), the Securities Ex-  
7 change Act of 1934 (15 U.S.C 78a et seq.), the  
8 Trust Indenture Act of 1939 (15 U.S.C 77aaa et  
9 seq.), the Investment Company Act of 1940 (15  
10 USC80a-1 et seq.), the Investment Advisers Act of  
11 1940 (15 U.S.C 80b et seq.), the Securities Investor  
12 Protection Act of 1970 (15 U.S.C 78aaa et seq.), or  
13 the rules and regulations thereunder;

14 (2) affect the authority of the Securities and  
15 Exchange Commission; or

16 (3) apply to information with respect to  
17 quotations for, or indications, orders, or transactions  
18 in, securities.

